

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Renny H. BARNES

Serial No.: 10/774,396

Filed: February 10, 2004

For: WALL ARTICLE HANGER FOR D-RINGS AND METHOD OF USE



Art Unit: 3632

Examiner: King, Anita, M.

Pre-Appeal Brief Request For Review.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In connection with the Notice of Appeal filed concurrently herewith, Appellant wishes to have a review of the factual and legal bases for the final rejection of the claims 8-10, 12, and 13 based on Sheehan and Kiessling. The remaining claims have been canceled by an Amendment filed concurrently herewith.

In the final rejection, the Examiner alleges that Sheehan and Kiessling establish a *prima facie* case of obviousness. The rejection is based on the following:

- 1) Sheehan discloses the invention except for the presence of a d-ring;
- 2) Kiessling discloses a d-ring assembly; and
- 3) It would be obvious to modify the hanger of Sheehan to include the d-ring assembly of Kiessling.

The rejection is flawed for the simple reason that even if the references were combined, the steps of claim 8 are still not taught.

In Sheehan, the method of attaching the hanger to a wall is described beginning

at col. 4, line 67. The method of hanging a picture is described in col. 4, lines 55-60. Sheehan is representative of typical picture hangers that are first mounted to the wall. Sheehan's hanger is more complex than the simple nail that it normally used. Nevertheless, Sheehan's hanger mounted to the wall prior to any picture hanging.

The flaw in the rejection is the failure to address all of the claims limitations. Claim 8 describes a method of first attaching a body to the d-ring assembly, maintaining the ring of the d-ring in a generally vertical relationship, and then pressing the wall article against a wall. These steps are nowhere to be found in the method described in Sheehan for hanging the picture. There is no suggestion of first attaching the picture wire to the tongue 24 and then pressing the picture to the wall for picture mounting.

Kiessling does not make up for the deficiencies in Sheehan. Kiessling is merely representative of a d-ring, and teaches nothing other than the normal d-ring mounting method.

Even if Kiessling were combined with Sheehan, the method of claim 8 would not be taught as is alleged in the final rejection. Combining Kiessling with Sheehan would merely mean that the picture hanging wire shown in Figure 3 of Sheehan is replaced with the ring of the d-ring of Kiessling. One of skill in the art would first attach the Sheehan hanger to a wall, and slip the ring into the tongue 24 to support the picture of Kiessling. This reference does not motivate one of skill in the art to first attach the ring of the d-ring to the tongue 24 of Sheehan, and then attach the entire hanger to the wall by pressing the article to the wall surface.

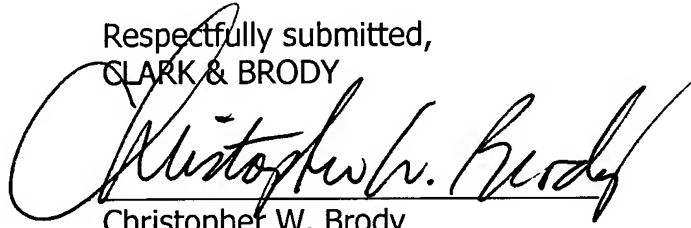
The Examiner rejection lacks a factual basis. Moreover, it is the hindsight reconstruction of the prior art in light of Applicant's disclosure. Again, there is no

factual basis to conclude obviousness based on the teachings of Sheehan and Kiessling, and the rejection is totally inappropriate.

Therefore, Applicant respectfully requests that the Examiner be directed to allow the pending claims in this case.

Please charge any fees to deposit account no. 50-1088, and credit any excess fees paid to the same account.

Respectfully submitted,
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